



RESEARCH POLICY 9 (RP-9) (FORMER TAP 46) PARTICIPATION IN COMMERCIAL ACTIVITIES

1. Introduction

Duquesne University, as an institution of higher learning, is committed to providing excellence in education, research, and scholarship as well as to expanding knowledge and the application of that knowledge to advance the greater good of our community, the nation, and the world. The products of scholarly research efforts often have far-reaching social benefits and commercial potential. This Research Policy governs the organizational structure and procedures through which innovations, inventions, creations, and discoveries made in the course of University research are made readily available to the public through commercial entities.

2. Policy Statement

Duquesne University recognizes that an efficient and effective method of developing and commercializing University innovation may be through a commercial entity such as a Startup Company. University Faculty, Students, and Staff are encouraged to engage in entrepreneurial activity based on their research innovations and expertise. When such commercial entities are formed, conflict of interest, conflict of commitment, and other matters related to assuring the most effective and rapid development of University innovation into products benefiting the public must be addressed. This Research Policy addresses such matters and the relationship between the University and University Faculty, Students, and Staff entrepreneurial activity.

3. Policy Scope

This Research Policy applies to Faculty, Students, Staff, Visitors, and others who make use of University Facilities, equipment, or other resources, or who receive funds from the University in the form of salary, wages, stipend, or other support, but not including undergraduate financial aid. This Research Policy assumes that the ownership rights to the Intellectual Property are either already vested in the University or assigned to the University as further described in RP-5, Intellectual Property.

4. Definitions

Certain terms are used in this document with specific meanings, as defined in this section. These definitions may not necessarily conform to customary usage.

Creator	Any creator, developer, or producer of Intellectual Property, including Faculty, Students, and Staff of the University.
Faculty	Any member of the University's Faculty as defined by University Executive Resolution.
Intellectual Property	Intellectual Property is a broad term referring to all forms of technology and expression whose ownership is subject to legal protection including, but not limited to, patents, copyrights, trademarks, service marks, trade secrets, and know-how. In particular, Intellectual Property may include intangibles and creations of the mind, such as inventions; computer software; and literary and artistic works such as books, teaching materials, on-line course materials, music, and works of art. For the purposes of this Research Policy, Intellectual Property does not include the University's name, logos, trademarks and/or service marks which are not managed or overseen by the Office of Research and Innovation (the ORI).
License	A legal contract between parties granting certain legally protected rights of use in Intellectual Property. The License establishes the rights and obligations of each party and sets royalties. The License also establishes its exclusivity or non-exclusivity, its field of use, and its applicable territory.
Student	Any full-time or part-time graduate or professional student who receives funds from the University in the form of salary, wages, stipend, or other support, regardless of whether the student receives financial aid from the University or from outside sources. Any full-time or part-time undergraduate student who receives funds from the University in the form of salary, wages, stipend, or other support, but not including undergraduate financial aid. It is the responsibility of students who are also employees of other outside entities to resolve any conflicts between this Research Policy and provisions of agreements with their employers or their employer's policies prior to beginning any undertaking at the University that will involve the development of Intellectual Property.
Staff	Any employee of the University other than Students and Faculty as defined above. If a Student is also a part-time University employee, the Student is considered as Staff with regard to Intellectual Property developed as a result of his employment, and as a Student with regard to other Intellectual Property. A full-time employee who is also enrolled for one or more courses is considered to be Staff.
Startup Company	Any company or commercial entity started as a result of licensing the University Intellectual Property.

Substantial Use	Extensive unreimbursed use of University facilities, equipment, personnel (including graduate students), or other resources. Mere incidental use of a facility does not constitute Substantial Use. Use will be considered “substantial” if similar use of similar facilities would cost the Creator more than \$5,000. Creators wishing to directly reimburse the University for the use of its facilities must plan to do so before the level of facilities usage for a particular Intellectual Property becomes substantial. (This provision is not intended to override any other department or University Policy concerning reimbursement for facilities usage.)
University	Duquesne University
Visitor	Any Visitor to the University who makes Substantial Use of University resources are considered Staff with respect to any Intellectual Property arising from such use.

5. Responsibilities

5.1. University Responsibilities

The University strives to provide a creative and entrepreneurial environment for commercializing its innovations, which may result in the formation of new Startup Companies, to which the University may license its Intellectual Property. In these instances, the University will undertake one or more of the following actions:

1. Conduct a diligent examination of the sources of funding and applicable research agreements to ensure that they are compatible with each other and that the University’s interest in the Intellectual Property is protected.
2. Help determine whether granting rights to the Startup Company is the best mode for commercialization, as opposed to a License agreement with a third-party commercial sponsor.
3. Help identify outside professional advisers and other resources to aid the Creator member in structuring, organizing, and managing the Startup Company and obtaining capital financing.
4. Define and negotiate any relevant License agreements with the Startup Company, noting that in some cases equity may not be accepted in consideration for the License agreement, and in some cases the Startup Company will be required to pay a License fee and other costs.
5. Manage all relevant Intellectual Property, research agreements, and grants and awards.

5.2. Creator Responsibilities

In the relationship between the University and a **Startup Company** formed to pursue the University innovations, any involved Creator has the following responsibilities:

1. Comply with all University policies, including employment, Intellectual Property, and conflict of interest policies. All activities under this Research Policy must also comply with all applicable federal, state, and local statutes and regulations.
2. Creators must follow any University and departmental guidelines established with respect to time spent on outside activities.
3. Creators involved with a **Startup Company** arising from Intellectual Property developed at the University must fully disclose their participation, activities, and ownership to any University-affiliated trainees, fellows, and Students working on their research. University-affiliated trainees, fellows, and Students should not be assigned to research projects that will lead to a financial benefit for the Creator.
4. Participation in and ownership by Creators in **Startup Companies** arising from Intellectual Property developed at the University must be disclosed to the Entrepreneurial Oversight Committee (EOC), a sub-committee of the Conflict Review Committee (CRC), as established in 2021, to assure compliance with University policies. The EOC consists of the members of the Conflicts Review Committee and the Associate Provost for Regulatory Affairs and Applied Innovation. The EOC will review and approve or make recommendations regarding policy compliance with respect to all disclosures of entrepreneurial activity prior to approval by the President or his designee. See Section 6.1 for requirements prior to approval.
5. Creators holding equity of 33.3% or more in a **Startup Company** arising from Intellectual Property developed at the University and who wish to act as PI/PD on a sponsored research grant or award related to the business of the **Startup Company** must allocate a portion of their personal share back to the University, as determined by the EOC after its review of each individual situation.
6. Creators must disclose to other investors in the **Startup Company** how their share of the licensing revenue due to the University is allocated.
7. Any Substantial Use of University space, equipment, or other resources by the **Startup Company** must be approved by the University under documented agreements that include the terms, purpose, duration, cost, and other specifics of such use.

6. Procedures

6.1. Creator Relationship to the Startup Company

Creators are encouraged to engage in entrepreneurial activity based upon their research innovation and expertise. They may hold equity in **Startup Company** companies that license or that are started based on Intellectual Property developed at the University provided that:

1. The relationship has been reviewed and approved by the EOC and the Office of the Provost in accordance with employment, conflict of interest policies, and any other applicable University policies.
2. The Startup Company is legally formed and has the potential for credible investors.
3. The aggregate percentage of stock, stock options, and warrants held by the Creator in the start-up company is a minority one. Exceptions for early Startup Companies which do not have products in trials or being sold may be made upon recommendation of the EOC to the University's President.
4. The stock is not traded or otherwise sold until the occurrence of a triggering event to be specified in advance. Triggering events may include: the results of the clinical studies are published; two years have elapsed from the first commercial sales of a product developed through license of University Intellectual Property; the company is sold; or the stock is publicly traded.
5. Faculty, Students, and Staff cannot hold director, management or operating positions within any Startup Company formed as a result of licensed University technology or which has a contractual or research relationship with the University as detailed in TAP 33, Conflict of Interest, and RP-7, Conflicts of Interest in Sponsored Grants and Awards, without prior approval from the President or his designee and upon recommendation of the EOC. Creators may hold advisory positions such as members of Scientific Advisory Boards without prior approval.
6. Consistent with TAP 33, Conflict of Interest, and RP-7, Conflicts of Interest in Sponsored Grants and Awards, financial disclosures must be provided by Faculty, Students, and Staff annually, and as relationships change, to the Department Chair, the Dean, the EOC and the Vice Provost for Research. Particular attention needs to be paid to accurate reporting of conflicts of interest and commitments, in adherence with TAP 33, Conflict of Interest; RP-7, Conflicts of Interest in Sponsored Grants and Awards, and the Faculty Handbook, with respect to sponsored research or development agreements between Faculty, Students, Staff, and Startup Companies in which they have ownership.

6.2. University Relationship to the Startup Company

In considering whether to engage in licensing transactions relating to Startup Companies arising from Intellectual Property developed at the University, the University may decide to accept equity at the starting stage of the License with the Startup Company where the Startup Company's cash obligations to the University may be postponed until specific milestones are reached. In addition, equity may be accepted by the University as compensation in addition to future fees and royalties, in lieu of all or part of the License initiation fees. Accordingly, the University may hold equity in Startup Companies arising from Intellectual Property developed at the University provided that:

1. The University's ownership of equity will not exceed 5% of all authorized shares. Exceptions for early Startup Companies may be made upon recommendation of the EOC to the University President or their designee.

2. Review and recommendations for acquiring stock as part of licensing agreements should be provided by the EOC and the Office of Research and Innovation to the University President or their designee.
3. Once equity is received by the University, the equity will be held, managed and liquidated in accordance with RP-5, Intellectual Property, and other applicable policies and procedures of the University, including procedures to ensure the non-disclosure of any material non-public information.

6.3. Startup Company-Sponsored Research at the University

Sponsored research related to the business of the **Startup Company** will be permitted at University facilities by the Creators who developed the Intellectual Property, provided that the following are maintained:

1. In addition to compliance with all other requirements related to research proposals, the research proposals are reviewed by the EOC prior to approval. All such proposals are subject to the University's rules regarding conflicts of interest.
2. Periodic reports are provided to the EOC on the research progress and results, particularly as related to new Intellectual Property resulting from the research.
3. Creators with equity and other potential financial benefits from the success of the **Startup Company** (for example, equity, royalties, consulting fees, or profit sharing) may only be the PI/PD on such sponsored research if their personal share of the University's income is allocated back to the University, as determined by the EOC after its review of each individual situation, and in accordance with an appropriate conflict management plan.
4. Faculty, Students, and Staff are not be permitted to execute a sponsored research agreement or grant or award from the **Startup Company** to the University. Any such research agreement or grant/award shall be negotiated and executed on behalf of the University by the Office of Research and Innovation.
5. Confidential research for the **Startup Company** should not delay or inhibit the publication of research findings beyond that normally expected for University Intellectual Property.

6.4. Faculty Consulting for Companies in Which They Have an Interest

Faculty may consult with companies in which they have a financial interest in accordance with the University Policies and the Faculty Handbook, so long as a disclosure of the relationship has been made to the relevant Department Chair, Dean, and the Office of Research and Innovation, and no conflict of interest exists.

6.5. Other Issues Related to Commercial Entities

To use the University name, logos, trademarks, and service marks in relation to Startup Companies that license or that are started based on Intellectual Property developed at the University, prior written approval from the University Department of Marketing and Communications in consultation with the University's Office of Legal Affairs is required.

Written permission from the Provost is required for any use by the Startup Company of the University Facilities or services.

Consistent with RP-7, Conflict of Interest in Sponsored Grants and Awards, corporate funding of the research, equity ownership, or other potential financial benefits to the Creator from the success of the company should be disclosed in all related publications and in-patient informed consent forms.

6.6. Product Liability

In order to control the risk of product liability, there must be a disclaimer of warranties in the License agreement with the Startup Company, and the Startup Company must maintain comprehensive insurance with coverages and limits acceptable to the University. Automatic indemnification of the University by the Startup Company is required. These items will not be waived by the University in the case of a company in which Faculty, Students, and Staff have an interest.

7. Exceptions

Exceptions to this Research policy and procedures require approval from the Office of the Provost and normally will be made with the agreement of those involved in the Entrepreneurial Oversight Committee and, as applicable, any others involved in the Conflict Review Committee.

8. Related Documents

This Research Policy works in conjunction with the following Research and University Policies, which are fully applicable. To the extent there is any conflict between this Research Policy and any of the Research or University Policies listed below, the University retains the sole discretion to determine which takes precedent.

TAP or Research Policy	Title	Web Address
TAP-33	Conflict of Interest	https://www.duq.edu/work-at-du/human-resources-home/the-administrative-policies-(taps)/33-conflict-of-interest

RP-4	Faculty Research Proposals to Governmental, Corporate, Foundation and Private Sources	https://www.duq.edu/research/research-conduct
RP-5	Intellectual Property	https://www.duq.edu/research/research-conduct
RP-7	Conflicts of Interest in Sponsored Grants and Awards	https://www.duq.edu/research/research-conduct

9. Contacts

Office	Telephone Number	Email Address and/or URL
Office of Research and Innovation	412-396-6326	duq.edu/research ORI@duq.edu

Web Address for this Research Policy: <https://www.duq.edu/research/research-conduct>

10. Effective Date and Revision History

This Research Policy is subject to periodic review and update by the Office of the Provost and the Vice Provost for Research.

09/30/22